

# HOUSE BILL REPORT

## HB 2689

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### As Reported by House Committee On: Appropriations

**Title:** An act relating to the public employment of retirees from the teachers' retirement system plan 1 and the public employees' retirement system plan 1.

**Brief Description:** Addressing the public employment of retirees from the teachers' retirement system plan 1 and the public employees' retirement system plan 1.

**Sponsors:** Representatives Bailey, Conway, Fromhold, Lovick, Quall, Simpson and Ormsby; by request of Select Committee on Pension Policy.

#### **Brief History:**

##### **Committee Activity:**

Appropriations: 1/18/06, 1/24/06 [DPS].

#### **Brief Summary of Substitute Bill**

- Defines separation from service in the Teachers' Retirement System (TRS) as excluding circumstances where an employee and his or her employer have an oral or written agreement to return to work following termination; in both TRS and the Public Employees' Retirement System (PERS), mere inquiries about postretirement employment do not constitute an agreement.
- Adds a gross misdemeanor penalty to the TRS for making a false statement to the Department of Retirement Systems related to separation from service.
- Requires that PERS and TRS Plan 1 retirees only be rehired pursuant to a written employer policy on hiring retirees.
- Increases the length of break in service in TRS from one to one and one-half months for eligibility for 1,500 hour years without suspension of retirement benefits.
- Imposes a prospective cumulative lifetime cap in TRS of 1,900 hours worked beyond an annual 867 hour threshold.

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 29 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Armstrong, Bailey, Buri, Chandler, Clements, Cody, Conway, Darneille, Dunshee, Haigh, Hinkle, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McIntire, Miloscia, Pearson, Schual-Berke, P. Sullivan, Talcott and Walsh.

**Staff:** David Pringle (786-7310).

**Background:**

Separation From Service

A member must separate from service in order to qualify for a retirement allowance. Separation from service is defined in the Public Employees' Retirement System Plan 1 (PERS 1) to mean that the member has no oral or written agreement to resume work with their employer after entering retirement. In contrast, separation from service in the Teachers' Retirement System Plan 1 (TRS 1) requires that the member have no written agreement to resume work with their employer after entering retirement. After entering retirement status, a member may begin his or her retirement allowance on the first day of the month following the month that he or she applies for retirement benefits. The date that retirement benefits begins is referred to as a member's "accrual date."

Length of Separation From Service

Members of PERS 1 and TRS 1 who re-enter employment with an eligible employer within one month of retiring are subject to a benefit reduction. The reduction is equal to 5.5 percent of the monthly benefit for every eight hours worked that month and is applied until such time as the retiree remains absent from eligible employment for at least one full calendar month.

Retirees from PERS 1 who have been separated from service for one calendar month after their accrual date may work up to 867 hours per calendar year without a reduction in pension benefits. Retirees from PERS 1 who have been separated from service for three calendar months, and whose hiring meets specific approval and record-keeping requirements, may work up to 1,500 hours per calendar year without a reduction in pension benefits. Once the 1,500 hour limit is exceeded, pension benefits are suspended until the beginning of the next calendar year.

Retirees from TRS 1 who have been separated from service for one calendar month may work up to 1,500 hours per year without a reduction in pension benefits.

1,900 Hour Lifetime Limit

The number of years a PERS 1 retiree may work for 1,500 hours without a reduction in benefits is limited, however. Each PERS 1 retiree may only work for a lifetime cumulative limit of 1,900 hours beyond 867 hours per calendar year. The 2003 Legislature passed Substitute House Bill 1829, which added additional restrictions on reemployment by retirees that currently apply to PERS 1 but not TRS 1. Substitute House Bill 1829 contained provisions adding similar restrictions to TRS 1, but those sections were vetoed by the Governor.

### False Claims

Both PERS and TRS have provided sanctions for filing false statements to the Department of Retirement Systems (DRS) since 1947. A person who files a false record or false statement to the DRS in any attempt to defraud the retirement systems is guilty of a gross misdemeanor in PERS and a felony in TRS. The felony provision in TRS was made a class "B" felony by the 2003 Legislature.

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### **Summary of Substitute Bill:**

#### Separation From Service

The definition of "separation from service" in PERS is amended to specify that expressions or inquiries about postretirement employment by employers or employees do not constitute an agreement, and does not mean that separation from service did not occur. The definition of "separation from service" in TRS is amended to include the same language as PERS, as amended in the bill. Separation from service does not occur in TRS when an employee and employer have a written or oral agreement to resume employment following termination. Claiming separation from service, and eligibility for a retirement benefit, when such an agreement exists may violate the TRS false claims provision.

#### False Claims

An additional false claims provision is added to TRS, specifically providing a gross misdemeanor penalty related to a member's separation from service and qualification for a retirement allowance.

#### Length of Separation from Service

The break in service required for members of TRS 1 required for eligibility for years of 1,500 hours of covered employment without suspension of retirement benefits is lengthened from one month to one and one-half months.

#### 1,900 Hour Lifetime Limit

The number of hours a TRS 1 retiree may work for 1,500 hours without a reduction in benefits is limited to 1,900 hours in excess of 867 per year, cumulative for the lifetime of each retiree. This 1,900 hour restriction is applied prospectively after the effective date of the act.

#### Written Employer Hiring Policies

Several procedures for hiring retirees are added to TRS 1, and the PERS 1 procedure is also modified. A school board or the other highest decision-making authority must approve hiring a retiree. In both PERS 1 and TRS 1, an employer must hire a retiree pursuant to a written policy and must document a justifiable need to hire a retiree into the position being filled. The employer must also hire the retiree through the established process for the position, retain records of the procedures followed and decisions made in hiring, and provide those records in the event of an audit.

### **Substitute Bill Compared to Original Bill:**

The original bill did not lengthen the break in service requirement for the 1,500 hour years without benefit suspension in TRS 1 from one to one and one-half months, and did not impose the prospective 1,900 cumulative lifetime limit on years that a retiree may work more than 867 hours per year without suspension in retirement benefits.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect on July 1, 2006.

**Testimony For:** This bill is part of a long process. The bill that was partially vetoed several years ago would have made changes similar to this bill. Earlier attempts were made to address some retire-rehire behavior. This bill is a good attempt to address some of the concerns raised by the study conducted by the State Actuary. It makes PERS and TRS equal in most respects. This "watchdog bill" could even be made a bit stronger with a 3-year prospective lifetime cap, and a longer break in service, and these changes would save the state money next biennium. Also referring to the Governor's proposed workforce study would be appropriate. Only 17 percent of TRS members are now in Plan 1, and we have high turnover. There is a continued need for some retire-rehire provisions, particularly in rural areas. There are certainly anecdotal incidents of abuse, and these provisions will hopefully reduce some of the worst instances.

**Testimony Against:** None.

**Persons Testifying:** Representative Bailey, Prime Sponsor; Randy Parr, Washington Education Association; and John Kvamme, Washington Association of School Administrators and Association of Washington School Principals.

**Persons Signed In To Testify But Not Testifying:** None.